

# CALIFORNIA CATTLEMEN'S ASSOCIATION

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September 14, 2004

The California Performance Review  
c/o Office of Governor Arnold Schwarzenegger  
State Capitol  
Sacramento, CA 95814

To Whom It May Concern:

The California Cattlemen's Association (CCA), representing California's ranchers and beef producers in legislative and regulatory affairs, appreciates the opportunity to comment on the California Performance Review (CPR) report. We applaud Governor Schwarzenegger's efforts to overhaul state government to reduce waste and inefficiency and make it more responsive to the needs of California's citizens and business community.

Beef cattle are one of California's most important agricultural products, ranking fifth in 2003 at \$1.35 billion in value of production, behind dairy products, grapes, nursery products and lettuce. Additionally, cattle ranchers are the primary stewards of California's expansive open spaces. Beef cattle producers own or manage over 30 million acres of private and publicly owned property in California. Ranchers and beef producers in our state produce millions of pounds of healthy, safe beef for consumers while maintaining working landscapes and open space benefiting wildlife and all of California's citizens. However, they currently fulfill this responsibility while facing significant challenges, a few of which are as follows:

- The amount of rangeland available to beef cattle producers in California is steadily decreasing, due to development, grazing restrictions on publicly-owned lands, and the purchases of rangeland by conservation organizations and state agencies.
- Burdensome and overlapping regulations enacted by state and federal government pertaining to air quality, water quality, and listed species threaten the viability of many ranch operations.
- Livestock diseases, including bovine tuberculosis and bovine spongiform encephalopathy, threaten animal health and consumer confidence in beef.

Because of these, and other, challenges, beef cattle numbers in California are incrementally declining, making it more difficult for businesses which beef cattle producers depend upon, including veterinary services, auction markets, and livestock haulers, to continue operating in California. These businesses, as well as the family cow/calf operations which make up most of California's beef cattle industry, are the backbone of many of California's rural economies. It is



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imperative that the ultimate product of the CPR recognizes their contributions to both the economic strength and environmental health of our great state.

Therefore, to improve both the business environment for beef cattle producers and the natural resources benefiting all of California's citizens, we offer the following comments relative to the CPR report.

### **RES 35 - Increase Efficiency in Using Existing Bond Funds for Environmental Enhancement**

CCA strongly supports RES35, and has continually advocated the use of conservation easements and public-private partnerships as an alternative to fee title acquisition by state agencies as means to conserve open space. In recent years ranchers and others have increasingly recognized that conservation easements are an important and cost-effective way to conserve our state's working ranches. The current focus by entities within the Resources Agency on purchasing private properties outright has many drawbacks, as follows:

- The initial cost of fee title acquisition is much greater than costs of a conservation easement placed in perpetuity. The table below provides appraised values (what the state or other parties would conceivably pay to purchase the property) versus conservation easement costs for six easements purchased and held by the California Rangeland Trust, a non-profit land conservancy founded by CCA in 1997:

<b>Property Name</b>	<b>Acreage</b>	<b>Appraised Value</b>	<b>Easement Value</b>	<b>Easement % of Appraisal</b>
Project #1	3,798	\$ 4,980,000.00	\$ 1,990,000.00	40.0%
Project #2	13,100	\$ 6,234,000.00	\$ 2,510,000.00	40.3%
Project #3	6,917	\$ 5,350,000.00	\$ 2,725,000.00	50.9%
Project #4	6,350	\$ 8,275,000.00	\$ 4,200,000.00	50.8%
Project #5	6,743	\$ 2,646,020.00	\$ 869,847.00	32.8%
Project #6	674	\$ 3,000,000.00	\$ 990,000.00	33.0%
<b>Totals/Averages</b>	<b>37,582</b>	<b>\$ 30,485,020.00</b>	<b>\$ 13,284,847.00</b>	<b>41.3%</b>

- Fee title acquisition forces the state to incur ongoing management costs for the property, whereas with a conservation easement the property is managed by the current owners, whose projects were selected based on their everyday management and stewardship practices. As noted within RES35, government agencies often lack the necessary funding to manage properties in their ownership, which often threatens the long-term ecological and environmental health of these properties.

- Current law specifies that property owned by government entities is exempt from property taxation. Fee title acquisition of properties by state agencies takes properties off local tax rolls, thus decreasing revenues to local governments.
- Fee title acquisition of properties by state agencies often results in the cessation of these properties used for agricultural production. This loss of productive land available to beef cattle producers and other agriculturalists is detrimental to neighboring farmers and ranchers, the agricultural community, and California's overall economic vitality. Properties which are taken out of agricultural production or no longer actively managed often become fire hazards or safe havens for invasive species, which further threaten area farmers and ranchers. On rangeland owned by the San Francisco Public Utilities Commission (SFPUC), costs incurred for a mix of controlled burns, herbicide applications, and mechanical treatments would have produced an average cost of \$300.00 per acre every three to five years to achieve the same fire suppression benefits as a managed grazing program. Given the approximately 32,500 acres currently leased for grazing by the SFPUC, this would have produced an average annual expense of \$950,000 to \$3,217,000. Instead, revenue from grazing leases provides the SFPUC with \$250,000 to \$290,000 in revenue annually. The State of California can achieve similar economic benefits by encouraging agencies or private easement holders to continue or establish grazing programs where appropriate.

Accordingly, CCA strongly supports the recommendation that the Governor should direct the Resources Agency, or its successor, to dedicate available resources bond measure funds to protecting and improving open space, wildlife and water through public-private partnerships and conservation easements. Furthermore, we recommend that all state agencies should be directed to place conservation easements on ranches currently owned by the state and to resell these ranches to the private sector, subject to the easements. This would return the ranches to the tax rolls and also reduce budget expenditures for land operations, maintenance and administration. The sales proceeds could be used to fund additional conservation easements, thereby protecting more properties within the state and/or augmenting stewardship endowments as needed. This aim could be accomplished with the following new recommendation within the CPR report:

**The Governor should direct the Resources Agency, or its successor, to divest itself of rangeland properties conducive to agricultural production, subject to the placing of a conservation easement on these properties to protect them in perpetuity.**

RES35 also directs the Resources Agency, or its successor, to coordinate state efforts to maximize federal funds available from the United States Departments of Agriculture (USDA) and Interior to supplement existing state resources bond measure funds. While this is certainly a worthwhile goal, CCA would like to propose a parallel recommendation which may accomplish this goal and allow private landowners in California to more easily access federal conservation funds. Currently, landowners are often unable to meet deadlines established by federal conservation programs such as the Environmental Quality Incentives Program (EQIP) because they are unable to receive permits from state agencies, especially DFG, in a timely manner. A simple Memorandum of Understanding between the USDA Natural Resources Conservation Service and DFG could substantially reduce the bureaucratic inefficiencies farmers and ranchers must deal with to participate in federal conservation programs and receive federal funds to

improve the condition of their properties. This aim could be accomplished with the following new recommendation within the CPR report:

**The Governor should direct the Resources Agency, or its successor, to better coordinate state and federal programs and permitting processes to maximize federal conservation funds available from the United States Departments of Agriculture and Interior to improve working landscapes across California.**

#### **RES17 - Simplify Process for Interagency Work Authorizations**

CCA supports the simplification of activities related to interagency contracts. The CPR correctly identifies excessive bureaucratic contracting processes as a significant roadblock that needs to be streamlined. California's beef cattle producers have witnessed firsthand the inefficiencies and delays that adversely impact state policy-making and permit development, including the recent attempt to conduct monitoring for agricultural runoff in the Central Valley. In April 2002, the SWRCB approved funding for a monitoring project that would provide scientifically credible information related to irrigated agricultural runoff. The results of this monitoring were intended to be the basis for the development of a irrigated agricultural waiver beginning in the fall of 2002. While this project was a top priority for SWRCB and agricultural producers, the interagency contracting process for Phase I monitoring took nine months. Phase II was delayed for an additional eight months. Farmers and ranchers were adversely affected by these contracting delays because the regulatory process was ultimately completed without critical information about the scope and severity of the agricultural discharge problem. As an alternative, we would also propose the creation in the Governor's Office of an ombudsman position dedicated to resolving the conflicts in contracting processes in and between various agencies.

#### **RES29 - Reorganize California's Commodity Boards as Public Corporations**

CCA has many questions regarding this recommendation, and is committed to protecting the ability of the California Beef Council (CBC), one of the 50 state commodity boards which would have the opportunity to reorganize under this recommendation, to promote our product in the face of litigation aimed at ending all generic commodity promotion programs. The CPR report states that the goal of this recommendation is to reduce the oversight role of California Department of Food and Agriculture (CDFA) over the 50 active state commodity boards, and limit both the potential liability and legal costs associated with defending commodity boards from legal challenges. The CPR report also notes that the state has spent more than \$8 million defending commodity boards, with several more cases pending in federal and state courts.

Presumably then, the CPR views commodity boards, including the CBC, as a liability from which the state should distance themselves from. This position is backed by the statement "...the state should restructure the commodity boards as political subdivisions to better insulate the state from the legal issues the commodity boards are experiencing. As public corporations or political subdivisions, commodity boards would be responsible for their own legal destiny." While defending commodity boards in court is undoubtedly a tedious and expensive process, distancing them from state government may serve to undermine a key legal argument used in the defense of commodity boards – that the generic advertising they conduct is government speech, which is

not constrained by the First Amendment. Therefore this recommendation, which may serve to limit the state's legal costs and liability of defending these commodity boards, may also make commodity boards more vulnerable to litigation.

However, in meetings between CCA staff and CDFA legal counsel, we have been informed that this recommendation may insulate commodity boards from legal challenges by categorizing them with other special districts, including cities and counties, for which there is ample case law regarding governance and authority. Thus, it appears there is a disconnect regarding the intent of this recommendation as stated in the CPR report, and the intent stated by CDFA. CCA requests that the intent and purpose of this recommendation be clarified before it is submitted to Governor Schwarzenegger. We also request that the draft legislative language seeking to implement this recommendation be made available to the agricultural community as soon as possible, so that we may obtain our own legal opinions on this recommendation and assess the viability of individual commodity boards reorganizing themselves as public corporations.

### **RES31 - Establish State Mitigation Property Standards and Registry**

CCA supports the creation of a register of all available mitigation banks and properties. Such a resource would be an excellent tool to connect developers of environmentally sensitive land and sellers of mitigation properties, many of which are beef cattle producers. However, CCA strongly opposes the creation a similar register of parcels which public agencies and non-profit organizations would like to acquire and add to their holdings. Such a register is unnecessary for the purposes of connecting willing sellers and willing buyers, and would potentially infringe upon landowner's property rights, should their property be listed without consent. Moreover, it is inappropriate and fiscally imprudent for the state to facilitate the acquisition of private property by non-profit organizations, which utilize the welfare exemption in the California Revenue and Taxation Code to take these properties off local tax rolls.

### **RES32 - Broaden the Use of Environmental Fee Collections to Address Unmet Needs**

CCA does not agree with the recommendation to shift funds collected for one purpose to another program of higher priority, including the reallocation of specific environmental fees to other high-priority environmental programs. Currently, state law requires that fee revenues be spent in direct relation to the product or service through which the fee was collected. We contend that if state programs funded by fee revenues "generate significant amounts of money" and yet are "process-oriented instead of outcome-based" and have "existed for more than a decade, but despite some progress, the problems they are designed to address still loom large," as stated in the CPR report, the problems stem not from a lack of funding but from the underlying structure or focus of the program itself. Furthermore, CCA believes that legislative or administrative effort to sever the nexus between fee revenues and the service provided would foster an attitude within state government that additional fees are a reasonable means to address fiscal shortcomings unrelated to the fee base, thus giving incentives to the state to increase fees, create new fees, and/or expand the current bureaucracy. This, of course, is contrary to the goals of the CPR report.

## **Elimination of the State Water Resources Control Board and Regional Boards**

CCA supports the recommendation to eliminate the Regional Water Quality Control Boards but opposes the related recommendation to eliminate the State Water Resources Control Board (SWRCB).

CCA agrees that elimination of the Regional Water Quality Control Boards would streamline permitting processes and provide greater consistency in policy among the regions but it is essential to maintain the SWRCB as an adjudicative body with jurisdiction over both water rights and water quality issues.

The SWRCB provides a vital adjudicative role, both in water rights and water quality. There must be an opportunity for landowners and other regulated persons to petition a body such as the SWRCB. The recent development of the conditional agricultural discharge waiver is an excellent example of the SWRCB balancing competing, but legitimate interests to render a more reasonable decision than those made by Regional Water Quality Control Boards. The process leading up to the SWRCB's decision on this particular issue demonstrated that an equally-balanced decision would not have been made without the SWRCB to oversee faulty judgments made by the Regional Water Quality Control Boards. Moreover, the process by which individuals serving on the SWRCB are appointed and confirmed works to limit the influence of any particular administration on key water decisions made by the SWRCB. In addition, because the SWRCB has authority regarding matters of water quality and water rights, it can effectively balance both priorities when making a decision. This would not be possible if water rights and water quality were spilt into two departments, as recommended within the CPR report. Notwithstanding efforts to achieve consistency between Regional Water Quality Control Boards, we find differences in policies and implementation approaches between the various regions in which our members operate. For those with operations in the Central Valley and either the Central or North coasts these disparities can be confusing, time-consuming, and expensive. In many instances, we have found the need to seek clarification on such matters from the SWRCB. We have generally found SWRCB staff to be responsive and willing to tackle the regional matters brought to their attention.

For these reasons and others, we urge the CPR Commission to consider an alternate approach which has been informally discussed with a number of stakeholders in which the SWRCB would be retained and the Regional Water Quality Control Boards would become planning and policy bodies. Under this scenario the Regional Water Quality Control Board executive officers would be responsible for permitting and enforcement actions.

### **General**

Volume II, Chapter 12 of the CPR report states that CDFA serves as “a model of the type of vertically integrated, customer focused and mission driven department this organizational framework hopes to replicate throughout state government. The Department exemplifies the provision of a single point of contact and authority for issues relating to one of the state's largest industries and public resources.” CCA wholeheartedly concurs with this assessment. CDFA has been an invaluable asset for California's cattle producers. Agency personnel work closely with

ranchers, beef producers, and industry leaders to protect the safe and reliable delivery of our products through food safety and security programs, disease prevention and eradication

programs, and identification and transportation services. In addition, ranchers and the public-at-large directly benefit from CDFA's efforts to control invasive species and protect agricultural products, private property, listed species and public safety from threats posed by depredating wildlife. For these reasons, ensuring that CDFA has the appropriate resources to fulfill their responsibilities has been a top priority of farmers and ranchers, and the ultimate product of the CPR should ensure that CDFA's effectiveness is not in any way diminished. Instead, CCA would wholeheartedly recommend that CDFA play a greater role in the policy decisions affecting California's farmers and ranchers.

Given the current organizational structure of California's government, there appears to be a serious disconnect between 'agriculture' and 'resource management.' While CDFA works to protect and promote the production of food and fiber in California, other agencies seem to be seeking to put California's farmers and ranchers out of business, via the use of overlapping and burdensome fees and regulations related to water quality, air quality, resource management, and listed species. With farmers and ranchers utilizing approximately 27 million acres of private land in California, and a total of over 50 million acres of our state's public and private land the message should be clear – we are not just a part of the environment in California, in essence we *are* the environment. Therefore, CCA presents three recommendations to enhance CDFA's role in protecting farmers and ranchers and bring together the conflicted actions and role of state government relative to farming and ranching:

1. The structure of CDFA and other agencies should be modified to allow CDFA, to the extent possible, to serve as the sole source of contact and authority for all issues pertaining to agriculture.
2. California's farmers and ranchers, and/or CDFA, should be given a seat at the various policy venues making decisions affecting agricultural properties and/or resources, and the ability of California's farmers and ranchers to maintain the viability of their operations.
3. The CPR report seems to recognize California's farms and ranches only as wildlife habitat discussed under the heading of 'Resource Conservation and Environmental Protection', and fails to acknowledge the many economic, environmental, and social benefits of a healthy agriculture industry. For these reasons, CCA requests that California's farming and ranching community play a more prominent role in determining the ultimate outcome of the CPR report.

## **Conclusion**

Again, CCA commends Governor Schwarzenegger for initiating the CPR process, and appreciates the opportunity to provide these comments. California's beef cattle producers have a long tradition of producing healthy, safe food for the U.S. and the world, maintaining millions of acres of wildlife habitat, and contributing significantly to California's \$26 billion agricultural economy. However, if these same ranchers are to survive in the 21<sup>st</sup> century and pass their operations on to subsequent generations, the frustration and financial burden caused by endless

levels of bureaucracy, unnecessary requirements, and burdensome processes must be addressed. CCA feel the CPR report is a good start to addressing some of these complex problems, and

stands ready with our members to work with the CPR Commission, Governor Schwarzenegger, the legislature, and other stakeholders in making government more efficient and responsive to the needs of California's citizens and business community. Should you have any comments or questions relative to the recommendations contained within this correspondence, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Benjamin Higgins". The script is fluid and cursive, with the first name and last name clearly legible.

Benjamin L. Higgins  
Executive Vice President